

Appln. No. 09/856,320  
Amd. dated May 4, 2004  
Reply to Office Action of November 4, 2003

REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 30, 31, 37-41, 51, and 58 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 37-41 are now amended back to being directed to a diagnostic marker, which was previously considered by the examiner to be within the elected invention.

Claims 30, 31, 42, and 51 have been objected to for the recitation of non-elected subject matter, i.e., polypeptides set forth by SEQ ID NO:4 or 6 or encoded by SEQ ID NO:3 or 5. This objection is obviated by the amendments to the claims to delete recitation of the non-elected subject matter without prejudice to the filing of a divisional application thereon.

The rejection of claim 31 under 35 U.S.C. §112, second paragraph, as being indefinite for the recitation of "peptide antibody" is obviated by the amendment to claim 31.

Claims 30, 31, 42, and 51 have been rejected under 35 U.S.C. §112, first paragraph, for lack of enablement and written description. This rejection is obviated by the cancellation of claim 42. New claim 58, which replaces cancelled claim 42, is only directed to a protein consisting of amino acid residues 52 to 282 of SEQ ID NO:2.

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Claim 42 has been rejected under 35 U.S.C. §102(b) as being anticipated by Marra et al. (1996) and under 35 U.S.C. §102(e) as being anticipated by Cohen et al., U.S. Patent 6,232,456. Claim 42 is cancelled, thereby obviating these 102(b) and 102(e) rejections. New independent claim 58 is not subject to these 102 rejections.

Claims 30, 31, 42, and 51 have been objected to. This objection is mooted by the cancellation of claim 42.

Claims 30, 31, 42, and 51 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is also mooted by the cancellation of claim 42.

The new grounds of rejection of claim 42 under 35 U.S.C. §102(b) over Marra et al. and under §102(e) over Cohen et al. are also obviated by the cancellation of claim 42. New claim 58 avoids these new issues altogether.

Claims 30 and 31 have been rejected under 35 U.S.C. §102(e) as being anticipated by Cohen et al. This rejection is respectfully traversed.

Claims 30 and 31 are now dependent from new claim 58, which is only directed to a protein consisting of amino acid residues 54 to 282 of SEQ ID NO:2. Accordingly, the antibodies of Cohen do not anticipate the presently claimed antibody against the protein consisting of amino acid residues 54 to 282 of SEQ ID NO:2.

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Reconsideration and withdrawal of the rejection are  
therefore respectfully requested.

Claim 51 has been rejected under 35 U.S.C. §102(e) as  
being anticipated by Southan et al., U.S. Patent 6,100,059. This  
rejection is obviated by the amendment to claim 51 to change its  
dependency from cancelled claim 42 to new claim 58.

In view of the above, the claims comply with 35 U.S.C.  
§112 and define patentable subject matter warranting their  
allowance. Favorable consideration and early allowance are  
earnestly urged.

Respectfully submitted,

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By

A handwritten signature in black ink, appearing to read "Allen C. Yun", is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

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